

RESOLUTION NO. CZAB15-19-04

WHEREAS, H. R. REALTY & INVESTMENTS, INC. applied for the following:

- (1) EU-M to RU-3M
- (2) To permit a townhouse development setback 10' from side street property lines (15' required).

REQUESTS #1 & #2 ON PARCEL #1

- (3) EU-M to RU-1M(a)
- (4) To permit lots with 0' of frontage on a public street (50' required) and access to a public street by means of a private drives.
- (5) To permit single-family residences with a rear setback of 15' (15' permitted on a portion only; 25' required for the balance).

REQUESTS #3 - 5 ON PARCEL #2

- (6) To waive zoning and subdivision requirements for section line roads to be 80' in width; to permit 0' to 25' of dedication (40' required) on the north half of theoretical S.W. 232 Street.
- (7) To permit parking and driveways within 25' of an official right-of-way (not permitted).
- (8) UNUSUAL USE to permit the filling of a lake and a lake excavation.

REQUESTS #6 - #8 ON PARCELS #1 & #2

Upon a demonstration that the applicable standards have been satisfied, approval of requests #2 & 4 - 7 may be considered under §33-311(A)(14) (Alternative Site Development Option) or under §33-311(A)(4)(b)(Non-Use Variance) or (c) (Alternative Non-Use Variance).

Plans are on file and may be examined in the Zoning Department entitled "Cottage of Silver Palm, as prepared by Edward Silva, Architect, dated 5/10/04 and consisting of 13 sheets.

SUBJECT PROPERTY: PARCEL 1: All of the SE $\frac{1}{4}$, of the SW $\frac{1}{4}$ and all of the SW $\frac{1}{4}$, of the SE $\frac{1}{4}$ and all of the SE $\frac{1}{4}$, of the SE $\frac{1}{4}$ of Section 17, Township 56 South, Range 40 East, lying S/ly & W/ly of the right-of-way of Black Creek Canal (C-1), less and except therefrom the following parcel of land:

Begin at the Southwest corner of the SE $\frac{1}{4}$, of the SW $\frac{1}{4}$ of said Section 17; thence N0° 57'7"W for a distance of 180.32' to a point; thence S88° 59'48"E for a distance of 128.9' to a point; thence N48° 23'31"E for a distance of 133.66' to a point; thence S90° 0'0"E for a distance of 242.59' to a point; thence N79° 37'06"E for a distance of 77.87' to a point; thence S90° 0'0"E for a distance of 339.22' to a point; thence N86° 28'06"E for a distance of 217.13' to a point; thence S85° 24'52"E for a distance of 215.35' to a point; thence S80° 20'19"E for a distance of 228.13' to a point; thence

N88° 20'44"E for a distance of 463.96' to a point; thence S88° 45'17"E for a distance of 208.58' to a point; thence N50° 34'24"E for a distance of 43.44' to a point; thence S0° 57'43"E for a distance of 251.19' to a point on the south line of the said SW ¼, of the SE ¼ thence S89° 22'47"W along said line for a distance of 962.83' to the Southwest corner of the SE ¼ of said Section 17; thence S89° 22'47"W along the said south line of the SE ¼ of the SW ¼ for a distance of 1,330.43' to the Point of beginning. AND: PARCEL II: A portion of all of the SE ¼, of the SW ¼ and all of the SW ¼, of the SE ¼ and all of the SE ¼, of the SE ¼ of Section 17, Township 56 South, Range 40 East, lying S/ly & W/ly of the right-of-way of Black Creek Canal (C-1). Said portion being more particularly described as follows:

Begin at the Southwest corner of the SE ¼, of the SW ¼ of said Section 17; thence N0° 57'7"W for a distance of 180.32' to a point; thence S88° 59'48"E for a distance of 128.9' to a point; thence N48° 23'31"E for a distance of 133.66' to a point; thence S90° 0'0"E for a distance of 242.59' to a point; thence N79° 37'06"E for a distance of 77.87' to a point; thence S90° 0'0"E for a distance of 339.22' to a point; thence N86° 28'06"E for a distance of 217.13' to a point; thence S85° 24'52"E for a distance of 215.35' to a point; thence S80° 20'19"E for a distance of 228.13' to a point; thence N88° 20'44"E for a distance of 463.96' to a point; thence S88° 45'17"E for a distance of 208.58' to a point; thence N50° 34'24"E for a distance of 43.44' to a point; thence S0° 57'43"E for a distance of 251.19' to a point on the south line of the said SW ¼, of the SE ¼ thence S89° 22'47"W along said line for a distance of 962.83' to the Southwest corner of the SE ¼ of said Section 17; thence S89° 22'47"W along the said south line of the SE ¼ of the SW ¼ for a distance of 1,330.43' to the Point of beginning.

LOCATION: Lying on the north side of theoretical S.W. 232 Street and 1,330' east of theoretical S.W. 107th Avenue, Miami-Dade County, Florida.

WHEREAS, a public hearing of the Miami-Dade County Community Zoning Appeals Board 15 was advertised and held, as required by law, and all interested parties concerned in the matter were given an opportunity to be heard, and at which time the applicant proffered a Declaration of Restrictions which among other things provided:

- (1) That the Declaration shall become final and shall be recorded in the Public Records of Miami-Dade County upon the approval of the Application by the Board of County Commissioners and/or Community Zoning Appeals Board 15 of Miami-Dade County, Florida and the expiration of all applicable appeal periods.
- (2) That said Property shall be developed substantially in accordance with the plans previously submitted to the Miami-Dade County Department of Planning & Zoning, consisting of thirteen (13) sheets prepared by Edward Silva and entitled "Cottage of Silver Palm" (the "Plans"), dated May 10, 2004, said plans being on file with the Miami- Dade County Department of Planning & Zoning, and by reference made a part of the Declaration.
- (3) That the residential development of the Property shall be limited to no more than two hundred thirty-seven (237) dwelling units.

- (4) That the use of the existing lake, as depicted on the Plans, shall be limited to non-motorized recreational activities, excluding remote controlled hobby crafts.
- (5) That the Owner, its heirs, successors or assigns shall, prior to the time of final plat approval, create or cause to be created (1) a homeowners' association for the entire development as a master association, (2) a community development district approved by Miami-Dade County, and/or (3) a special taxing district approved by Miami-Dade County which shall individually or collectively provide for the maintenance of all common areas, the existing lake, and other amenities common to the Property. If a homeowners' association is established as a master association in accordance with this paragraph, it shall not preclude the creation of individual homeowners' association for each phase or stage of development or preclude the same from maintaining their own buildings or their own common areas so long as said associations, or members thereof, are members of the master association and each such association are required hereby, to be members of the master association.

WHEREAS, this Board has been advised that the subject application has been reviewed for compliance with concurrency requirements for levels of services and, at this stage of the request, the same was found to comply with the requirements, and

WHEREAS, upon due and proper consideration having been given to the matter, it is the opinion of this Board that the requested district boundary changes to RU-3M on Parcel 1 (Item #1), and RU-1M(a) on Parcel 2 (Item #3) would be compatible with the neighborhood and area concerned and would not be in conflict with the principle and intent of the plan for the development of Miami-Dade County, Florida, and should be approved, and that the requests to permit a townhouse development setback 10' from the side street property lines (Item #2), to permit lots with 0' frontage on a public street and access to a public street by means of a private drive (Item #4), to permit single-family residences with a rear setback of 15' (Item #5), to waive zoning and subdivision requirements for section line roads to be 80' in width; to permit 0' to 25' of dedication on the north half of theoretical S.W. 232 Street (Item #6) and to permit parking and driveways within 25' of an official right-of-way (Item #7) would be in harmony with the general purpose and intent of the regulations, compatible with the area and its development and would conform with the requirements and intent of the Zoning Procedure Ordinance, and that the requested unusual use to

permit the filling and excavation of a lake (Item #8), would be compatible with the area and its development and would be in harmony with the general purpose and intent of the regulations and would conform with the requirements and intent of the Zoning Procedure Ordinance, and that the requested unusual use to permit the filling and excavation of a lake (Item #8) would not have an adverse impact upon the public interest and should be approved, and that the proffered Declaration of Restrictions should be accepted, and that items #2 & 4 - 7 do not meet the criteria for Section 33-311(A)(14) (Alternative Site Development Option) nor Section 33-311(A)(4)(c) (Alternative Non-Use Variance) and should be denied under Sections 33-311(A)(14), and

WHEREAS, a motion to accept the proffered Declaration of Restrictions, to approve Items #1, 3 & 8, and to approve Items #2 & 4 - 7 as non-use variances, and to deny Items #2 & 4 - 7 as alternative site development options and alternative non-use variances, was offered by Paul S. Vrooman, seconded by Alfonsina Sergio, and upon a poll of the members present the vote was as follows:

Daniel L. Adams	absent	JoAnn Bova	absent
Al Alvarez	nay	Alfonsina Sergio	aye
Leonard Anthony	aye	Paul Vrooman	aye
	Nancy McCue	aye	

NOW THEREFORE BE IT RESOLVED, by the Miami-Dade County Community Zoning Appeals Board 15, that the requested district boundary changes to RU-3M on Parcel 1 (Item #1) and RU-1M(a) on Parcel 2 (Item #3) be and the same are hereby approved and said property is hereby zoned accordingly.

BE IT FURTHER RESOLVED, that the requests to permit a townhouse development setback 10' from the side street property lines (Item #2), to permit lots with 0' frontage on a public street and access to a public street by means of a private drive (item #4), to permit single-family residences with a rear setback of 15' (Item #5), to waive zoning and

subdivision requirements for section line roads to be 80' in width; to permit 0' to 25' of dedication on the north half of theoretical S.W. 232 Street (Item #6), to permit parking and driveways within 25' of an official right-of-way (Item #7) as non-use variances, and the requested unusual use (Item #8) be and the same are hereby approved, subject to the following conditions:

Conditions #1 - 4 applicable to requests #2 and #4 through #7:

1. That a site plan be submitted to and meet with the approval of the Director upon submittal of an application for a building permit and/or Certificate of Use and Occupancy; said plan to include among other things but not be limited thereto, location of structure or structures, exits and entrances, drainage, walls, fences, landscaping, etc.
2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled "Cottage of Silver Palm," as prepared by Edward Silva, Architect, dated 5/10/04 and consisting of 13 sheets.
3. That the use be established and maintained in accordance with the approved plan.
4. That the applicant submit to the Department for its review and approval a landscaping which indicates the type and size of plant material prior to the issuance of a building permit and to be installed prior to the issuance of a Certificate of Use.

Conditions #5 - 27 applicable to the lake fill:

5. That in addition to any bond required by DERM, the property owner and any and all parties who may have a legal beneficial or equitable interest in the land shall execute a bond agreement with the Department of Planning & Zoning prior to issuance of a CU for a fill project. Such bond agreement shall stipulate that in order to insure compliance with all terms and conditions associated with the fill project permit approval, a cash or surety bond or substantially equivalent instrument meeting with the approval of the Director shall be posted by the applicant with the Department, payable to Miami-Dade County, in an amount as may be determined and established by the Director and the DERM Director. Said instrument shall be in such form that the same may be recorded in the public records of Miami-Dade County. The bond amount will be based on the volume of cut required to conform any remaining excavation to Code approved slope configuration.
6. That no portion of the property subject to the approved excavation fill plan and permit shall be transferred without the approval of the Director, unless the filling of the subject excavation has been completed in accordance with the excavation fill plan and permit for the fill project unless the bond has been released

7. That only such clean fill material as allowed by Chapter 24 of this code and approved in writing by the Department of Environmental Resources Management, as set forth herein, shall be used in the fill project.
8. That no fill material or unacceptable fill to be removed shall be permitted to be stored on property abutting the fill project site or within the adjacent rights-of-way at any time during the fill project.
9. That any unacceptable fill material shall be stored in containers; shall not be permitted to remain on the project site for more than thirty (30) days; and shall not exceed a volume of forty (40) cubic yards.
10. That neither the clean fill material piles, nor the unacceptable fill material piles, nor the piles awaiting sorting shall be permitted to exceed a height of 10 feet above the applicable flood elevations for the property.
11. That the applicant shall be permitted to operate Monday through Sunday, from sunrise to sunset.
12. That the applicant shall record a notice of authorization on a form prescribed by the Director of the excavation fill plan approved by the Director and the Director of the Department of Environmental Resources Management (DERM Director) for the fill project in the public records of Miami-Dade County prior to the issuance of a Certificate of Use (CU) authorizing commencement of the fill project.
13. That the applicant shall submit a detailed written disclosure of the fill project specifying the equipment and methods to be utilized during the fill project, including every aspect of the trucking, dumping, sorting and filling process.
14. That the applicant shall obtain a fill project CU permit, and shall promptly renew the same semi-annually with the Department, upon compliance with all terms and conditions, the same subject to cancellation upon violation of any of the conditions. Failure to commence the fill project within six months of the date of the original CU issuance shall result in an abandonment of the fill project.
15. That prior to each CU renewal, the applicant shall submit a status report indicating the percentage of fill project completion and the estimated time of the fill project's final completion.
16. That if an excavation will be filled in phases, a phase plan shall be submitted with the initial excavation fill plan and permit plan addition. The plan and supporting documents shall delineate the area to be filled in each phase and the time frame projected to close out each phase of the fill project.
17. That the deadline date for the completion of the fill project, including final closure and completion of all tasks set forth in the approved plans and permit shall be determined by the Director and established in the permit. All authorized work shall be carried on continuously and expeditiously so that the filling will be completed

within the allocated time, but in no event for any more than nine (9) months from issuance of the CU permit.

18. That if the fill project is discontinued, abandoned, falls behind schedule or time expires under the permit, the remaining excavation shall immediately be sloped to conform with the zoning code requirements and all equipment and concomitant uses shall be removed from the premises, unless an application to extend the time is filed with the Department prior to expiration of the approval and provided that good cause is demonstrated as to the delay in completing the filling of the excavation.
19. That the grading, leveling, sloping of the banks and perimeter restoration shall be on a progressive basis during the fill project. In accordance with this requirement, the applicant shall submit "as-built" surveys prepared and sealed by a Florida-licensed surveyor and/or professional engineer annually and at final completion of the fill operation or upon request of either the Director or the DERM Director when it is determined by the Director or the DERM Director that the filling is proceeding contrary to approved plans or in violation of the conditions of the approved excavation fill plan or the permit plan.
20. That the property shall be suitably posted to meet with the approval of the Director and the DERM Director; said postings shall denote the fill project and shall warn the public concerning the possible hazards prior to commencement and for the duration of the fill project.
21. That the applicant shall obtain all permits required by this Code and comply with all permit requirements and all applicable conditions of the Department of Environmental Resources Management as well as the Public Works Department for the duration of the fill project.
22. That upon completion of the fill project the property shall be restored and left in an acceptable condition meeting the approval of the Director and the DERM Director.
23. That the final slope(s) of the remaining excavation shall be in accord with zoning code requirements.
24. That the fill project shall meet all stormwater management requirements of the Code of Miami-Dade County and the filled excavation or portion of excavation filled shall not exceed the applicable flood elevations for the property.
25. That to the extent possible, the property shall be staked and said stakes shall be maintained in proper position so that the limits of the filling, slopes and grade levels may be easily determined.
26. That the applicant record the resolution of approval for the use in the public records of Miami-Dade County prior to the issuance of a Certificate of Use.
27. That if in the opinion of the Director the lake fill is hazardous to the surrounding area, the hazardous area shall be fenced in, or otherwise protected, by the applicant as directed by the Director.

Conditions #28 - 44 applicable to the lake excavation:

28. That the lake tract be platted; no building permit shall be issued for lots contiguous to the lake tract until the lake excavation is completed and lake as-built drawings submitted to and approved by the Department

Or in lieu of Condition #28 the following:

- 28a. Prior to the approval of any type of plat on the property, the Owner(s) of the property shall submit a Unity of Title agreement to the Department of Planning and Zoning; said agreement shall encumber the entire property described in the plat. Once the Unity of Title agreement has been reviewed and accepted it shall be recorded in the public records prior to final plat consideration by the Board of County Commissioners. Upon receipt of a written request to release the Unity of Title agreement, the Department will consider the release only after the issuance of a lake excavation permit and the submittal and final approval of the lake excavation as-built. The lake excavation area shall be shown as a separate tract and appropriately labeled as such on the final plat.
29. That complete lake excavation plans prepared and sealed by a Florida-licensed surveyor and/or professional engineer be submitted to and meet with the approval of the Director upon submittal of an application for a lake excavation permit; said plans shall be substantially in accordance with that submitted for the hearing entitled "Cottage of Silver Palm," as prepared by Edward Silva, Architect, dated 5/10/04 and consisting of 13 sheets.
30. That the grading, leveling, sloping of the banks and perimeter restoration shall be on a progressive basis as the project develops and the excavation progresses. The applicant will submit "as built" surveys prepared and sealed by a Florida-licensed surveyor and/or professional engineer at final completion of the excavation, or upon request of the Director or the Director of the Department of Environmental Resources Management.
31. That the property shall be staked to meet with the approval of the Director and the Director of the Department of Environmental Resources Management; said stakes shall be maintained in proper position so that the limits of the excavation, slopes and grade levels may be easily determined.
32. That upon completion of the project, the property shall be restored and left in an acceptable condition meeting with the approval of the Director and the Director of the Department of Environmental Resources Management.
33. No material shall be removed from the premises and all excavated material shall be used to improve the property described in the application.
34. That the use of explosives shall be strictly prohibited in connection with the lake excavation operation.

35. That the hours of the lake excavation operation shall be controlled by the Director, except that the applicant shall be permitted to operate Monday through Sunday, from sunrise to sunset.
36. That the lake excavation operation shall be carried on continuously and expeditiously so that the entire project will be completed within nine (9) months from the date of permit issuance for the proposed lake excavation
37. If the lake excavation operation is discontinued, abandoned, falls behind schedule or time expires, the existing excavation shall immediately be sloped to conform with the approved plans and the entire operation shall be removed from the premises.
38. That in order to insure compliance with all terms and conditions imposed, a cash or substantially equivalent instrument meeting with the approval of the Director shall be posted with the Department, payable to Miami-Dade County, in an amount as may be determined and established by the Director; said instrument shall be in such form that the same may be recorded in the public records of Miami-Dade County and said instrument shall be executed by the property owner and any and all parties who may have an interest in the land, such as motgagees, etc.
39. That the applicant obtain an excavation use permit from and promptly renew the same annually with the Department, upon compliance with all terms and conditions, the same subject to cancellation upon violation of any of the conditions.
40. All excavations shall be completely enclosed by a safety barrier, minimum height of 6 feet, consisting of either orange plastic safety fence or wood slat storm fencing installed on 4" x 4" posts spaced every 10 feet. Said barrier shall be installed prior to issuance of the excavation permit and commencement of excavating and shall remain in place until work is complete and the performance bond is released.
41. All excavations shall be posted every 50 feet with warning signs a minimum of 18" x 18" in size.
42. That a hedge, 3' high at time of planting, be installed along both sides of the guardrail proposed on those portions of the lake fronting on a right-of-way.
43. That the applicant complies with all applicable conditions and requirements of the Miami-Dade County Department of Environmental Resources Management (DERM).
44. That the applicant complies with all applicable conditions and requirements of the Miami-Dade County Public Works Department.

BE IT FURTHER RESOLVED that, pursuant to Section 33-6 of the Code of Miami-Dade County, Florida, the County hereby accepts the proffered covenant and does exercise its option to enforce the proffered restrictions wherein the same are more restrictive than applicable zoning regulations.

BE IT FURTHER RESOLVED, that the approval of the request to waive zoning and subdivision requirements for section line roads to be 80' in width; to permit 0' to 25' of dedication on the north half of theoretical S.W. 232 Street (Item #6) is predicated on the following:

- A. That there are special circumstances affecting the property and that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his land.
- B. That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.
- C. That the granting of the variance will not be detrimental to the public welfare or injurious to the other property in the territory in which the property is situated.

BE IT FURTHER RESOLVED, notice is hereby given to the applicant that the approval herein constitutes an initial development order and does not constitute a final development order and that one, or more, concurrency determinations will subsequently be required before development will be permitted.

The Director is hereby authorized to make the necessary changes and notations upon the maps and records of the Miami-Dade County Department of Planning and Zoning.

PASSED AND ADOPTED this 16th day of June, 2004.

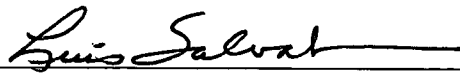
Hearing No. 03-1-CZ15-6
Is

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

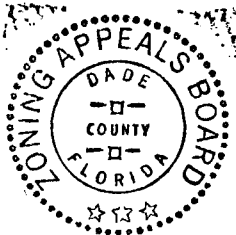
I, Luis Salvat, as Deputy Clerk for the Miami-Dade County Department of Planning and Zoning as designated by the Director of the Miami-Dade County Department of Planning and Zoning and Ex-Officio Secretary of the Miami-Dade County Community Zoning Appeals Board 15, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. CZAB15-19-04 adopted by said Community Zoning Appeals Board at its meeting held on the 16th day of June, 2004.

IN WITNESS WHEREOF, I have hereunto set my hand on this the 28th day of June, 2004.

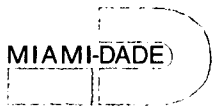


Luis Salvat, Deputy Clerk (2678)
Miami-Dade County Department of Planning and Zoning

SEAL



MIAMI-DADE COUNTY, FLORIDA



DEPARTMENT OF PLANNING AND ZONING

MAIN OFFICE

□ 111 NW 1 STREET, SUITE 1210
MIAMI, FLORIDA 33128
(305) 375-2800

HERBERT S. SAFFIR
PERMITTING AND INSPECTION CENTER

11805 S.W. 26 Street
MIAMI, FLORIDA 33175

□ IMPACT FEE SECTION
(786) 315-2670 • SUITE 145

□ ZONING INSPECTION SECTION
(786) 315-2660 • SUITE 223

□ ZONING PERMIT SECTION
(786) 315-2666 • SUITE 106

□ ZONING PLANS PROCESSING SECTION
(786) 315-2650 • SUITE 113

H.R. Realty & Investments, Inc.
c/o William Riley Jr., Esquire
Bilzin Sumberg Baena Price & Axelrod LLP
200 South Biscayne Boulevard, Suite 2500
Miami, Florida 33131-5340

Re: Hearing No. 03-1-CZ15-6 (02-305)
Location: North side of theoretical S.W. 232 Street and 1,330' east of theoretical
S.W. 107th Avenue, Miami-Dade County, Florida

Dear Mr. Riley:

Enclosed is Resolution No. CZAB15-19-04, adopted by the Miami-Dade County Community Zoning Appeals Board 15, which accepted your client's Declaration of Restrictions, and approved the requests for district boundary changes to RU-3M & RU-1M(a), unusual use for lake fill and excavation, and related variances on the above described property. Please note the conditions under which said approval was granted, inasmuch as strict compliance therewith will be required. Failure to comply with stipulated conditions, if any, will result in the immediate issuance of a civil violation notice for each condition violated. Each notice issued may require payment of a daily monetary fine.

If, as stipulated in the resolution, building permits and/or use, occupancy or completion certificates will be required, note that permits must be obtained and final inspection approvals received for construction work done or required prior to issuance of the applicable certificate(s) pursuant to Section 33-8 of the Zoning Code. Payment of certificates may be subject to annual renewal by this Department. Application for required permits and/or certificates related to use, occupancy or completion should be made with this Department, or the Building Department as appropriate. At time of permit application you must provide a copy of this resolution. If there are anticipated changes from any plan submitted for the hearing, a plot use plan is to be submitted to this Department in triplicate before any detailed plans are prepared, inasmuch as building permits will not be issued prior to the approval of said plan.

Please note that any aggrieved party may appeal the Board's decision to the Board of County Commissioners, within 14 days from the date of posting on the 11th floor of the Stephen P. Clark Building, 111 N.W. 1st Street, Miami, FL 33128. The date of posting is June 21, 2004. In the event an appeal is filed, any action undertaken during the appeal period is at the applicant's risk.

Sincerely,

Lou Salvat
Deputy Clerk

Enclosure